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is unavailable.

(e) "Approved staff educational activities" means formally organized or planned programs of study usually engaged in by providers in order to enhance the quality of client care in an ICF-MR. These activities shall be licensed when required by state law.

(f) A "client day" means that period of service rendered to a client between the census-taking hours on two successive days and all other days for which the provider receives payment, either full or partial, for any medicaid/medikan or non-medicaid/medikan client who was not in the home. The census-taking hours consist of 24 hours beginning at midnight.

(g) "Common ownership" means that any individual or an organization holds 5% or more ownership or equity of the ICF-MR and of the facility or organization serving the ICF-MR.

(h) "Control" means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(i) "Cost finding" means the process of recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(j) "Costs related to client care" means all necessary and proper costs, arising from arms-length transactions in accordance with general accounting rules, which are appropriate and helpful in developing and maintaining the operation of client care facilities

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and activities. Specific items of expense shall be limited pursuant to K.A.R. 30-10-218, K.A.R. 30-10-219, K.A.R. 30-10-220, K.A.R. 30-10-221, K.A.R. 30-10-222, K.A.R. 30-10-223, K.A.R. 30-10-224 and K.A.R. 30-10-225.

(k) "Costs not related to client care" means costs which are not appropriate or necessary and proper in developing and maintaining the ICF-MR operation and activities. These costs are not allowable in computing reimbursable costs.

(l) "Extra care" means temporary care required by a client that takes more time, services and supplies than the care provided an average ICF-MR client. Extra care requires prior authorization before reimbursement.

(m) "General accounting rules" mean the generally accepted accounting principles as established by the American institute of certified public accountants except as otherwise specifically indicated by ICF-MR program policies and regulations. Any adoption of these principles does not supersede any specific regulations and policies of the ICF-MR program.

(n) "Inadequate care" means any act or failure to take action which potentially may be physically or emotionally harmful to a recipient.

(o) "Inspection of care review of intermediate care facilities for the mentally retarded" means a yearly, client-oriented review of only medicaid/medikan clients, conducted by a team from the Kansas department of health and environment consisting of a nurse,

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a social worker, and a medical doctor, to determine whether those clients' needs are being met.

(p) "Intermediate care facility for the mentally retarded" means a facility which has met state licensure standards and which:

(1) Is primarily for the diagnosis, treatment, or habilitation of the mentally retarded or persons with related conditions; and

(2) provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or habilitative services to help each individual function at that person's greatest ability.

(q) "Levels-of-care model" means a residential model with five residential facility levels established by service intensity categories and size of facilities. The following specifies the size of facility limits:

(1) Small facility (four through eight beds);

(2) medium facility (nine through 16 beds); and

(3) large facility (greater than 16 beds).

(r) "Mental retardation" means subaverage general intellectual functioning which originates in the developmental period and which is associated with impairment in adaptive behavior as defined by the 1983 revision of classification in mental retardation authored by the American association of mental deficiency.

(s) "Net cost of educational activities" means the cost of approved educational activities less any grants, specific donations or reimbursements of tuition.

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(t) "Non-working owners" means any individual or organization having 5% or more interest in the provider, who does not perform a client-related function for the ICF-MR.

(u) "Non-working related party" means any related party as defined in K.A.R. 30-10-200 who does not perform a client-related function for the ICF-MR.

(v) "Organization costs" mean those costs directly incidental to the creation of the corporation or other form of business. These costs are intangible assets in that they represent expenditures for rights and privileges which have value to the enterprise. The services inherent in organization costs extend over more than one accounting period and must be amortized over a period of not less than 60 months from the date of incorporation.

(w) "Owner-related party compensation" means salaries, drawings, consulting fees, or other payments paid to or on behalf of any owner with a 5% or greater interest in the provider or any related party as defined in K.A.R. 30-10-200, whether the payment is from a sole proprietorship, partnership, corporation, or non-profit organization.

(x) "Persons with related conditions" means individuals who have a severe, chronic disability that meets all of the following conditions:

(1) Is attributable to:

(A) Cerebral palsy or epilepsy; or

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(B) any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons.

(2) is manifested before the person attains age 22;

(3) is likely to continue indefinitely; and

(4) results in substantial functional limitations in three or more of the following areas of major life activity:

(A) Self-care;

(B) understanding and use of language;

(C) learning;

(D) mobility;

(E) self-direction; and

(F) capacity for independent living.

(y) "Physician extender" means a person registered as a physician's assistant or licensed advanced registered nurse practitioner in the jurisdiction where the service is provided and who is working under supervision as required by law or administrative regulation.

(z) "Plan of care" means a document which states the need for care, the estimated length of the program, the methodology to be used, and expected results.

(aa) "Projected cost report" means a cost report submitted to the agency by a provider prospectively for a 12-month period of

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time. The projected cost report is based on an estimate of the costs, revenues, resident days, and other financial data for the 12-month period of time.

(bb) "Projection status" means that a provider has been assigned a previous provider's rate for a set period of time or is allowed to submit a projected cost report. The provider shall submit an historic cost report at the end of the projection period to be used for a settlement of the interim rates and to determine a prospective rate.

(cc) "Provider" means the operator of the ICF-MR specified in the provider agreement.

(dd) "Psychological evaluations or re-evaluations in intermediate care facilities for the mentally retarded" means a review of the previous pertinent psychological material to determine if it is consistent with the client's present status.

(ee) "Related parties" means any relationship between two or more parties in which one party has the ability to influence another party to the transaction such that one or more of the transacting parties might fail to pursue its own separate interests fully. Related parties include parties related by family, business or financial association, or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arms-length negotiations. Transactions or agreements that are illusory or a sham shall not be recognized.

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(ff) "Related to the ICF-MR" means that the facility, to a significant extent, is associated or affiliated with, has control of, or is controlled by, the organization furnishing the services, facilities, or supplies.

(gg) "Representative" means legal guardian, conservator or representative payee as designated by the social security administration, or any person designated in writing by the client to manage the client's personal funds, and who is willing to accept the designation.

(hh) "Routine services and supplies" mean services and supplies that are commonly stocked for use by or provided to any client. They are to be included in the provider's cost report.

(1) Routine services and supplies may include:

(A) All general nursing services;

(B) items which are furnished routinely to all clients;

(C) items stocked at nursing stations in large quantities and distributed or utilized individually in small quantities;

(D) routine items covered by the pharmacy program when ordered by a physician for occasional use; and

(E) items which are used by individual clients but which are reusable and expected to be available in a facility.

(2) Routine services and supplies are distinguished from non-routine services and supplies which are ordered or prescribed by a physician on an individual or scheduled basis. Medication ordered may be considered non-routine if:

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(A) It is not a stock item of the facility; or

(B) it is a stock item with unusually high usage by the individual for whom prior authorization may or may not be required.

(3) Routine services and supplies do not include ancillary services and other medically necessary services as defined in subsection (d) and also do not include those services and supplies the client must provide.

(4) Reasonable transportation expenses necessary to secure routine and non-emergency medical services are considered reimbursable through the medicaid per diem rate.

(ii) "Working trial balance" means the summary from the provider's general ledger that was used in completing the cost report. This summary should contain the account number, and a description of the account, amount of the account and on what line of the cost report it was reported. The effective date of this regulation shall be April 1, 1992. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective, T-30-10-1-90, Oct. 1, 1990; effective Jan. 30, 1991; amended Oct. 1, 1991; amended April 1, 1992.)



30-10-201. Intermediate care facilities for mentally retarded. (a) Change of provider.

(1) The current provider or prospective provider shall notify the agency of a proposed change of providers at least 60 days in advance of the closing transaction date. Failure to submit a timely notification shall result in the new provider assuming responsibility for any overpayment made to the previous provider before the transfer. This shall not release the previous provider of responsibility for such overpayment.

(2) Before the dissolution of the business entity, the change of ownership of the business entity, or the sale, exchange or gift of 5% or more of the depreciable assets of the business entity, the agency shall be notified in writing concerning the change at least 60 days before the change. Failure to submit a timely notification shall result in the new provider assuming responsibility for any overpayment made to the previous provider before the transfer. This shall not release the previous provider of responsibility for such overpayment. The secretary may expressly agree in writing to other overpayment recovery terms.

(3) Any partnership that is dissolved shall not require a new provider agreement if at least one member of the original partnership remains as the provider of services. Any addition or substitution to a partnership or any change of provider resulting in a completely new partnership shall require that an application to be a provider of services be submitted to the agency.

(4) If a sole proprietor not incorporated under applicable state law transfers title and property to another party, a change of ownership shall have occurred. An application to be a provider of services shall be submitted to the agency.

(5) Transfer of participating provider corporate stock shall not in itself constitute a change of provider. Similarly, a merger of one or more corporations with the participating provider corporation surviving shall not constitute a change of provider. A consolidation of two or more corporations which creates a new corporate entity shall constitute a change of provider and an application to be a provider of services shall be submitted to the agency.

(6) The change of or a creation of a new lessee, acting as a provider of services, shall constitute a change of provider. An application to be a provider of services shall be submitted to the agency. If the lessee of the facility purchases the facility, the purchase shall not constitute a change in provider.

(b) Each new provider shall be subject to a certification survey by the department of health and environment and, if certified, the period of certification shall be as established by the Kansas department of health and environment. The effective date of this regulation shall be January 30, 1991. (Authorized by and implementing K.S.A. 39-708c, as amended by L. 1990, Chapter 152; effective, T-30-10-1-90, Oct. 1, 1990; effective January 30, 1991.)